

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

CHAD EDWARD WEISS,

Plaintiff,

v.

CASE NO. 18-3112-SAC

JEFF EASTER, et al.,

Defendants.

ORDER

Plaintiff, a state prisoner appearing pro se and in forma pauperis, filed this civil rights complaint pursuant to 42 U.S.C. § 1983, alleging his constitutional rights were violated while he was housed at the Sedgwick County Jail in Wichita, Kansas. On July 12, 2019, the Court entered a Memorandum and Order (Doc. 28), directing the clerk of court to prepare waiver of service forms for Defendants, to be served upon Defendants at no cost to Plaintiff. Waiver of service was returned executed for Defendants Kim (lnu), (fnu) Tucker, (fnu) Woodson, Jeff Easter, Lisa K. Ireland, Denise (lnu), and Harold Stopp. (Docs. 29, 30, 31, 32, 33, 34 and 39.) Waiver of service was returned unexecuted for Defendants Laura (lnu), Jennifer (lnu), Shana (lnu) and Kim (lnu). (Docs. 35, 36, 37 and 38.) The waivers were returned to sender with a notation “non deliverable no longer employed.”

The Court issued a show cause order to Plaintiff, ordering him to show cause why the unserved defendants should not be dismissed. (Doc. 48.) Plaintiff filed a response (Doc. 50) indicating that he has no access to the internet and is unable to locate the unserved defendants. Plaintiff indicates that they do not provide their full names to Plaintiff and Sedgwick County and Correct Care Solutions (“CCS”) should have this information.

On December 10, 2019, a *Martinez* Report (Doc. 51) was filed by Sedgwick County Sheriff Jeff Easter as directed by the Court. The *Martinez* Report provides that the defendant referred to as Kim (Inu) is Kim Johnson and she has been served. Her waiver of service was originally returned as non-deliverable until it was determined that Kim (Inu) was Kim Johnson and she was still employed at the facility, at which time a waiver was returned. (Doc. 51, at 5.) The report also provides that “Defendant Jennifer (Inu) has not been served and last known contact information is no longer correct.” *Id.* The report also includes affidavits from Laura Smith and Shana Bock, and notes that CCS is now known as “Wellpath, L.L.C.”¹ The Court directs Sheriff Easter to provide under seal the last known addresses for Defendants Laura (Inu) and Shana (Inu), and to clarify whether these defendants are Laura Smith and Shana Bock. Plaintiff also names as defendants: Persons 1, 2, and 3, all listed as CCS Physicians; (fnu) (Inu) (1), Official D2134 at the Sedgwick County Jail; and (fnu) (Inu) (2), Clinic Liaison for CCS. The Sheriff should also attempt to identify any of these unnamed defendants, if possible.²

The Court finds that Defendant Jennifer (Inu) should be dismissed for failure to serve this defendant within ninety days after the Complaint was filed. *See* Fed. R. Civ. P. 4(m). Plaintiff has the responsibility to provide the Court or the Marshals Service with the information of defendant’s address for service. *Folsom v. Grice*, No. CIV-17-1024-D, 2018 WL 5904508, at *2–3 (W.D. Okla. Oct. 26, 2018); *Nichols v. Schmidling*, No. 10-2086-JAR, 2012 WL 10350, at *2 (D. Kan. Jan. 3, 2012) (“A plaintiff must cooperate with the Marshals Service and take reasonable steps to identify the defendant by name and address so that service can be accomplished.”) (citations omitted).

¹ Correct Care Solutions, LLC, did not return a waiver.

² The *Martinez* Report includes an affidavit from Kim Waters, who identifies herself as previously holding the position of Clinic Liaison at the Sedgwick County Adult Detention Center. (Doc. 51–4.)

IT IS THEREFORE ORDERED that Defendant Jennifer (Inu) is dismissed for failure to effectuate service on this defendant.

IT IS FURTHER ORDERED that the Clerk of Court is directed to correct the caption to reflect that Defendant Kim (Inu) is Kim Johnson and to show that CCS is now known as Wellpath, LLC. The Clerk is directed to send waiver of service forms to CCS and Wellpath, LLC.

IT IS FURTHER ORDERED that Sheriff Easter is directed to provide under seal the last known addresses for Defendants Laura (Inu) and Shana (Inu), and to clarify whether these defendants are Laura Smith and Shana Bock. The Sheriff is also directed to attempt to identify the unnamed defendants, if possible.

IT IS SO ORDERED.

Dated December 11, 2019, in Topeka, Kansas.

s/ Sam A. Crow
SAM A. CROW
U. S. Senior District Judge